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CONTENTS

		Paragraphs
I.	LAND AND PEOPLE	1 - 42
	A. General	1 - 6
	B. Economy and labour	7 - 19
	C. Social infrastructure	20 - 29
	D. Education	30 - 36
	E. Health care	37 - 40
	F. Housing	41 - 42
II.	GENERAL POLITICAL STRUCTURE	43 - 59
	A. Political history and framework	43 - 51
	B. Type of government	52 - 59
III.	GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED	60 - 70
IV.	INFORMATION AND PUBLICITY	71 - 74

Annexes*

1. Constitution of Aruba
2. Statistical Yearbook

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* Available for consultation in the secretariat files.

GE.96-15589 (E)

I. LAND AND PEOPLE

A. General

1. Aruba, which until 1986 formed part of the Netherlands Antilles, is now an autonomous partner within the Kingdom of the Netherlands. Aruba is an island of 70.9 square miles (193 square kilometres) situated in the south-east Caribbean, approximately 30 km north of South America, 12° north of the equator and 70° west longitude.

2. Even though the island is located in the Caribbean, it cannot be associated with the lush greens of the tropics; it has a dry, healthy climate. Its high temperatures are compensated by the refreshing effect of the north-east trade winds. The lack of sufficient rainfall, however, inhibits agricultural subsistence.

3. Aruba is one of the few islands in the Caribbean where traits of the native Indian population are still in evidence. The Aruban population today is a mixture of American Indian, European and African heritage. Dutch is the official language, while the native language is Papiamento, a mixture of modern languages and old native Indian words. In addition, Spanish and English are compulsory school subjects and are also widely spoken.

4. In Aruba, over 40 nationalities have contributed towards creating a unique and peaceful society. The main industry is tourism, while in 1991 the oil refinery resumed its operations after a six-year closure.

5. The quality of life is reflected in the island's educational and health-care systems, social provisions and housing. Average life expectancy is 76 years of age for women and 72 for men.

6. For statistical information on Aruba relating to specific issues such as population, birth rate, public health, education etc., please refer to the Statistical Yearbook of Aruba. The Yearbook is updated every year and may be consulted at the United Nations Centre for Human Rights, Geneva.

B. Economy and labour

7. Aruba has an open economy that encourages free enterprise and competition, maintaining a clear distinction between the public and private sectors. Due to the absence of commercially exploitable mineral resources and manufacturing, the island is heavily dependent on imports, and conducts foreign trade on a large scale. Foreign trade management is geared towards maintaining a proper balance of trade, and there is a constant search for ways of expanding exports.

8. Past experience has shown that an open, small-scale economy is very vulnerable; external events can affect it dramatically. In order to maximize economic opportunities, the government's policy focuses primarily on international developments. This means that the economy's most dynamic sectors are tourism, oil refining and transshipment, and international trade and finance.

9. In 1983 the tourist flow from the major markets, the United States of America (50 per cent) and Venezuela (25 per cent), accounted for the occupation of approximately 2,061 hotel rooms on the island. In that same year, however, the tourist flow from Venezuela was severely affected by the decline in oil prices, which led to a devastating devaluation of the Venezuelan currency and galloping inflation. After 1983, tourist earnings and business on the island suffered from the shrinking of the Venezuelan market by some 66 per cent, as well as from the worldwide depression. A shift in economic policy was essential.

10. The year 1985 marked the turning-point in the island's economic policy. In March, the Exxon refinery shut down its operations after almost 60 years. Besides being a substantial job provider, the refinery had accounted for a large share of government revenue and foreign exchange earnings. Its closure slashed government income by 50 per cent and caused unemployment to rise to an estimated 30 per cent. Prior to 1985, the oil industry had been the leading sector, with the tourist industry in second place.

11. A change in economic policy was implemented in the second half of the 1980s, after the constitutional change within the Kingdom of the Netherlands in 1986 by which Aruba became a separate entity in the Kingdom. The new policy created jobs for the many unemployed, provided compensation for the loss of government revenue and assured the expansion of the service sector, with the tourism industry out in front; in due course, the latter would become the leading industry.

12. Hotel capacity grew from 2,061 rooms in 1985 to 6,313 in 1994, and the number of visitors staying on the island increased from 202,564 to 582,136 in 1994, making the hospitality sector the major job provider. A situation of total employment was achieved by the end of this period (see table 1), and foreign labour had to be imported to keep up with the labour demands of a growing economy.

TABLE 1. Labour market

Per year end	1989	1990	1991	1992	1993	1994
Population	61 775	64 674	68 897	72 707	79 397	80 257
Labour force	25 604	29 258	31 650	33 930	36 670	39 150
Employment	25 226	28 870	31 450	33 735	33 471	38 954
Unemployment	378	388	200	195	199	196
Unemployment (%)	1.5	1.3	0.6	0.6	0.5	0.5
Participation rate (%)	42.4	45.2	45.9	46.7	46.2	48.81

Source: Department of Labour.

13. Growth in the hospitality sector had a primary spin-off effect in the construction sector, both for hotel buildings and for private housing and physical infrastructure. Business, financial and trade activities increased

and contributed to the national economy through the expansion in the domestic market and in the free zone. Imports (including oil) grew from US$ 191 million in 1986 to US$ 730 million in 1993 to keep up with the demand in the tourist industry and the growing population. Growth of exports (excluding oil products) was moderate, increasing from US$ 24 million in 1986 to US$ 75 million in 1993. The export turnover of the free zone amounted to US$ 191 million in 1993.

14. In 1989, the Coastal Aruba Refining Company started to rehabilitate the infrastructure of the former Exxon refinery with the objective of realizing a refining capacity of 180,000 barrels a day. In 1990, the refinery became officially operational; it now provides 250 jobs and contributes to the foreign exchange reserve. In 1989, the Wickland Oil Company embarked on the transshipment of oil, using the Exxon transshipment facilities. Hence the oil sector is once again contributing to the national economy, perhaps not on the same scale as before, but its activities help to offset the negative trade balance.

15. As already noted, the economic boom fostered a tremendous demand for labour and eliminated unemployment; the new climate attracted foreign workers to the island in search of a better livelihood. This, together with a higher participation rate on the part of the local labour force and of women in particular, has resulted in a remarkable increase of the labour force in comparison with 1988.

16. The nominal gross domestic product (GDP) experienced a double-digit growth until 1992. Since then it has continued to grow more moderately (see table 2). The demand for labour in an overheated economy made inflation a serious adversary in devising economic policy. By adopting statutory minimum wages, introducing a lenient immigration policy and vigilant monetary management by the Central Bank, the pressure on inflation was reduced and kept under control.

TABLE 2. Gross domestic product

	1989	1990	1991	1992	1993
GDP (Af million)	1 405	1 628	1 809	2 023	2 175
Nominal growth (%)	16.4	15.9	11.1	11.9	7.5
Real growth (%)	11.6	8.2	7.2	7.1	1.0
GDP per capita (Af)	22 850	25 220	26 825	28 400	27 400

Source: Department of Economic Affairs, Commerce and Industry.

17. Statutory minimum wages are in force for workers over 18 years of age. General legal guidelines stipulate a maximum of 8½ hours daily for a 5-day working week (i.e. a working week not exceeding 42½ hours), or a maximum of 8 hours daily for a 6-day working week (i.e. a working week not exceeding 48 hours).

18. Employees are free to join a trade union. Each employee is entitled to a paid holiday of at least 15 working days per year. An employee whose employment has been terminated through no fault of his own is entitled to a lump sum in compensation.

19. The Statistical Yearbook provides additional information on the economy and the labour market.

C. Social infrastructure

20. Despite the economic expansion that Aruba has enjoyed in recent years, some inhabitants are unable, either temporarily or for a longer period of time, to provide for themselves. To alleviate this problem, a social security system is provided for under national legislation.

21. Although in principle all Arubans are responsible for supporting themselves through income from labour, the National Social Care Ordinance and the National Income Support Ordinance provide assistance in the form of a financial contribution to basic living costs for families or households that have no income or not enough income to support themselves and are not covered by any other statutory schemes or benefits.

22. The following persons are entitled to income support:

(a) Dutch nationals born in Aruba;

(b) Dutch nationals who were not born in Aruba, but who have resided in Aruba for at least three years;

(c) Foreign nationals married to persons referred to in (a) or (b) provided they are members of the same household;

(d) Unmarried minor foreign nationals who are members of the same household as persons referred to in (a) or (b);

(e) Foreign nationals who have filed an application for naturalization.

23. Where applicable, the income benefit is supplemented with a foster-child benefit or special disability benefit.

24. Both employer and employee contribute to a social security plan which provides health coverage and accident, old age and widows' and orphans' benefits. Each employee, regardless of income, must be insured by his employer for on-the-job accidents. At the age of 60 every citizen is entitled to an old age pension.

25. The accident insurance legislation provides employees who have suffered an accident at work with medical treatment and financial compensation. If the employee dies as a result of the accident, the scheme entitles his or her surviving relatives to financial compensation.

26. The health insurance legislation provides employees with medical treatment and financial compensation in the event of sickness (two years

of continuous treatment). For the purposes of this legislation, sickness includes pregnancy and childbirth. The beneficiaries are all those who work for an employer, whether on a permanent basis or according to the terms of a contract. Public officials are likewise ensured by the government.

27. The redundancy pay legislation provides employees with compensatory payment in the form of a lump sum if their employment is terminated through no fault of their own. All employees are entitled to this benefit, with the exception of persons employed by public law bodies and officials and teachers in State-aided schools.

28. The free medical insurance legislation provides for free or subsidized medical treatment for citizens with an income below a certain limit who cannot obtain medical insurance under a group insurance policy or who can prove that they have been refused medical insurance elsewhere, whether the exclusion is total or only in respect of certain illnesses. Furthermore, a foreign national who is the legitimate child, or a child whose father has acknowledged paternity, of a Dutch national born in Aruba, and a foreign national who is married to a Dutch national born in Aruba, can also receive free or partially free medical insurance.

29. For statistical information regarding social affairs, please consult chapter V of the Statistical Yearbook.

D. Education

30. Article 1.20 of the Constitution of Aruba states that "education shall be an object of constant concern on the part of the Government". This article also stipulates that education may be freely received, without prejudice to restrictions laid down by country ordinance, while paying due respect to every person's religion or belief. Furthermore the Constitution stipulates that the government must submit annual reports on the state of education to parliament.

31. The importance of a well-educated population is fully recognized in Aruba. The literacy rate is over 97.5 per cent. In 1993 16.6 per cent of the government budget was spent on education, following the trend of the 1990s.

32. Aruba does not yet have compulsory primary education, although steps are currently being taken to remedy this situation, partly because of the obligations under article 14 of the International Covenant on Economic, Social and Cultural Rights. School attendance is voluntary, and in this light the high percentages are all the more encouraging. For statistics on education please refer to chapter F of the Statistical Yearbook of Aruba.

33. The Aruban educational system is largely modelled on the Dutch system. There are 58 primary schools with some 9,400 pupils and 23 secondary schools with some 6,670 pupils. Another 140 pupils attend the international school, which has an American curriculum. For children with a physical or mental disability, special schools are available.

34. Higher education is also available, although the range of subjects is limited. Aruba has a school for secretarial and administrative eduction, a

teacher training college and a hotel school. In 1988 the University of Aruba opened its doors, with a Faculty of Law; in August 1994 teaching started in the new Faculty of Finance and Economics.

35. Because of Aruba's limited range of tertiary eduction a relatively large number of students continue their studies abroad, mainly in the Netherlands and the United States of America. The government offers students financial support (grants and loans) to enable them to continue their education. In 1993 (57.5 per cent) and 1994 (54.9 per cent) more than half of those receiving grants were women.

36. That changes are needed in the Aruban educational system has been known for some time. The percentage of pupils who have to repeat a year is fairly high, which is largely due to language problems. Although Dutch is the official language of instruction, the great majority of the Aruban population normally speak Papiamento. Furthermore, since 1988 many foreigners have migrated to Aruba, in some cases with their families. Although the influx of non-Dutch pupils does not pose problems of integration, whether in racial or other terms, the fact that Dutch is the official language does pose problems for the children in particular and the school system in general. Since 1989 individual schools have organized Dutch courses for non-Dutch pupils who have come to Aruba with their parents from various countries.

E. Health care

37. Aruba's health care is of a high standard and is available to everyone. The Public Health Service consists of several departments which provide physical and mental health services, curative as well as preventive. For example, the Department of Contagious Diseases registers cases of these diseases and provides counselling and vaccinations. There are also departments for youth health care, the inspection of medicines, psychiatric and social services, information and education.

38. The Dr. Horacio Oduber Hospital (280 beds) has a reputable staff and modern sophisticated equipment. There is also a public health laboratory which is equipped with modern analytical instruments and a well-trained staff, including professionally qualified bio-analysts and laboratory specialists. The laboratory is enrolled in a number of external quality programmes, including those run by the College of American Pathologists, the Centers for Disease Control (CDC) and the Caribbean Epidemiological Center (CAREC).

39. The White and Yellow Cross provides domestic nursing services primarily for patients with chronic diseases such as diabetes and for neonates. Other services include the activities of the Family Planning Service (free of charge), the Red Cross and the blood bank, whose blood supply is acquired and controlled in accordance with the regulations of the American Blood Bank Association.

40. For statistical data on public health please refer to chapter C of the Statistical Yearbook.

F. Housing

41. Due to the accelerated growth of the economy and the related influx of thousands of foreigners, combined with the previous tradition of home ownership, there is currently an excessive demand for rented accommodation. Although numerous housing projects have been realized, alleviating the shortage to some extent - especially in the middle and upper income categories - the pressure on rents for lower-middle and lower income groups continues to increase.

42. For further statistical information with regard to housing, please refer to chapter D of the Statistical Yearbook.

II. GENERAL POLITICAL STRUCTURE

A. Political history and framework

43. The present constitutional structure of the Kingdom of the Netherlands may be described as follows. Aruba is part of the Kingdom, which consists of three autonomous partners; the Netherlands, the Netherlands Antilles and Aruba. The relationship between the three Kingdom partners is stipulated in the Charter of the Kingdom of the Netherlands.

44. Until 1986, Aruba formed part of the Netherlands Antilles. Although from 1951 onwards Aruba had its own insular government within the political structure of the Netherlands Antilles, Aruba continued to strive for a greater say in internal matters. This struggle intensified in the early 1970s, culminating in a public referendum in March 1977, when the majority of Arubans opted for autonomy in the form of separation from the Netherlands Antilles. On 1 January 1986, an amendment to the Charter of the Kingdom of the Netherlands was passed, giving Aruba the autonomous status within the Kingdom of the Netherlands (status aparte) to which it had long aspired.

45. During the 1983 Round Table Conference, where agreement was reached on this separate status, the Netherlands urged that it be granted for a period of 10 years, after which (i.e. in 1996) Aruba should become constitutionally independent. Article 62, paragraph 1 of the Constitution stated: "With regard to Aruba, the constitutional order laid down in the Charter shall end as of 1 January 1996."

46. From the outset, most Arubans resented this contentious condition, and Aruban politicians constantly expressed their rejection of what was perceived as an imposed independence. In 1990 the Dutch policy was revised, with the Dutch administration declaring its willingness to postpone Aruba's independence for an indefinite period. On 13 July 1990, the Minister for Netherlands Antillean and Aruban affairs and the Aruban Prime Minister agreed that article 62 would be rescinded and that both Caribbean countries (the Netherlands Antilles and Aruba) would retain the right to secede from the Kingdom.

47. In 1993, the three Kingdom partners discussed the future status of the Kingdom at two conferences. With regard to Aruba, the parliaments of the Netherlands, the Netherlands Antilles and Aruba agreed to delete

article 62 of the Kingdom Charter, which stated that Aruba would become independent as from 1 January 1996. In December 1994 a Kingdom Act was signed to this effect.

The Charter of the Kingdom of the Netherlands

48. The Charter (Statuut), the highest constitutional instrument of the Kingdom, is a legal document sui generis, based upon its voluntary acceptance by the three countries. It consists of five paragraphs. The first two paragraphs define the association between the three countries, which is federal in nature. The fact that the three countries together form one sovereign entity implies that a number of matters need to be administered jointly. These are called Kingdom affairs. They are enumerated in the Charter, and include the maintenance of independence, defence and foreign relations.

49. The third paragraph deals with the relationship between the countries as autonomous entities. This partnership implies that the countries respect each other and give one another support and assistance, material or otherwise, and that they consult and coordinate in matters which are not Kingdom affairs but in which a reasonable degree of coordination is in the interest of the Kingdom as a whole.

50. In accordance with article 3 of the Charter, foreign affairs (including the authority to conclude treaties with other States and/or organizations) are Kingdom affairs, and as such are dealt with by the Council of Ministers of the Kingdom. This Council consists of the Cabinet of the Netherlands, supplemented by a Minister Plenipotentiary each for Aruba and the Netherlands Antilles.

51. It is also laid down in the Charter that each of the countries is responsible for promoting fundamental human rights and freedoms, but that the safeguarding of these rights is a Kingdom affair (art. 43).

B. Type of government

52. Aruba's system of government is a parliamentary democracy. The head of State is the Queen of the Netherlands, represented by a Governor, who is appointed for a six-year period of office by the Queen upon the recommendation of the Aruban Council of Ministers.

53. The Council of Ministers is accountable to a 21-member parliament (Staten) consisting of one House. Members of Parliament are chosen in general elections according to a system of proportional representation every four years, on the basis of a multi-party system. The Governor and the Council of Ministers jointly form the Government of Aruba.

54. The executive powers are vested in a seven-member Council of Ministers headed by the Prime Minister. The Ministers currently have the portfolios of General Affairs, Economic Affairs and Tourism, Finance, Justice and Public Works, Transport and Communication, Education and Labour, and Social Affairs and Public Health. The Minister Plenipotentiary, residing in The Hague, represents Aruba's interests in the Netherlands.

55. The principal task of parliament is to enact legislation in cooperation with the government. Every national law has to be decided upon jointly by government and parliament. Apart from this co-legislative task, parliament supervises and monitors the government in order to ensure that the executive power functions properly.

56. The judiciary is independent of the legislative and executive powers. Judges are appointed for life by the Crown. Since 1 January 1986, the organization and composition of the judiciary in the Netherlands Antilles and Aruba have been regulated according to the same procedure. In both countries proceedings are conducted before the court of first instance, with scope for appeal to the Joint Court of Justice of the Netherlands Antilles and Aruba and for appeal in cassation to the Supreme Court in The Hague.

57. The Advisory Council plays an important part in the preparation of legislation. The government sends every draft country ordinance for advice to the Advisory Council. Only after the Advisory Council has made its recommendations is the draft ordinance sent, together with these recommendations, to parliament.

58. Apart from advising the government on draft legislation, the Advisory Council can also make recommendations on its own initiative concerning matters relating to its work. At the government's request the Advisory Council can give advice on any matter, in which case the government is obliged to give the Council all the relevant information.

59. Besides the recommendations it receives from the Advisory Council, the government also receives advice from the General Auditor and the Social and Economic Council. The reports of these three advisory bodies are public and are available to any citizen who wishes to consult them, unless this would be contrary to the national interest or the interests of the Kingdom.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

60. The main frame of reference for fundamental human rights (including civil and political rights) in Aruba is the Constitution (Staatsregeling), chapter I of which, and to some extent the other chapters (for example, article V.22 on sufficient employment and article V.23 on the provision of sufficient living accommodation) enshrine the most important basic human rights. The catalogue of these rights is extensive and is based on international conventions such as the Universal Declaration of Human Rights, the European Social Charter, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the American Convention on Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms, in addition to the Constitution of the Netherlands and generally acknowledged principles of fundamental rights.

61. In addition, since Aruba attained its current status aparte (semi-sovereign status) in 1986, the relationship between the Netherlands Antilles and Aruba has been governed by the Cooperation Agreement

(Samenwerkingsregeling), article 3 of which directs the countries to incorporate human rights, as enshrined in the European Convention on Human Rights of 4 November 1950, into their legislation.

62. Furthermore, Aruba is a party to the following human rights treaties and periodically submits reports in accordance with its obligations as defined in these treaties.

(a) International Covenant on Civil and Political Rights;

(b) Optional Protocol to the International Covenant on Civil and Political Rights;

(c) International Covenant on Economic, Social and Cultural Rights;

(d) International Convention on the Elimination of All Forms of Racial Discrimination;

(e) Convention on the Elimination of All Forms of Discrimination against Women;

(f) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(g) European Convention for the Protection of Human Rights and Fundamental Freedoms;

(h) European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(i) European Social Charter.

63. The Kingdom is a signatory to the Convention on the Rights of the Child. The Aruban government believes the Convention on the Rights of the Child to be of great importance to the safeguarding and further extension of the rights of children. Many voices have been raised in parliament, the Aruban community in general and a number of non-governmental organizations in particular, urging a rapid accession to the Convention. At present the government is working on the necessary legislation to implement the Convention so that it can be ratified as soon as possible.

64. Article 14 of the Charter of the Kingdom of the Netherlands implies that the articles dealing with Kingdom affairs in the Dutch Constitution also apply to Aruba. Thus, the articles of the Netherlands Constitution which stipulate the order of precedence of international conventions and national guidelines also apply to the constitutional order of Aruba. The provisions of these articles solve the problems which arise should the application of provisions of a convention or decision by a human rights organization, which are binding on each individual, conflict with the statutory provisions of the country concerned. In such cases the provisions of the convention or of the human rights organization take precedence over domestic statutory provisions. Of crucial relevance are the words "binding on each individual".

65. The principles of a fair and public hearing are enshrined in the Constitution and in other regulations. The equality of all persons before the law is expressed in statutory regulations on procedural law. All parties in legal proceedings, whether these are criminal, civil or administrative proceedings, have the same rights and obligations. Statutory provisions provide for free legal counsel for residents who have an income from employment that is equal to, or less than, the statutory minimum wage. Aliens who are not residents of Aruba but who fulfil the other requirements of this law are also eligible for free legal assistance.

66. Many statutory regulations provide for the right of appeal against certain decisions by administrative bodies. Public servants can appeal to the Public Servants' Tribunal. The courts involved are independent and impartial. In a number of cases, the Governor or a Minister act as administrative appeal bodies. Partly as a result of the judgement of the European Court of Human Rights of 23 October 1985 (Benthem), whereby appeal to the Netherlands Crown, in Aruba, represented by the Governor, may not be regarded as independent and impartial justice, the introduction of an administrative procedure was prepared, whereby all exceptional appeal and objection procedures are to be replaced by one administrative procedure. Under this system, appeal may be lodged with a court of first instance against any decision by an administrative body that has legal consequences, provided an obligatory objection procedure has first been completed.

67. In those cases which are not provided for in the above-mentioned legislation, the individual may initiate civil proceedings on the grounds of tort on the part of the government (art. 1382 of the Civil Code of Aruba). Such proceedings are conducted before the court of first instance, with scope for appeal to the Joint Court of Justice of the Netherlands Antilles and Aruba and appeal in cassation to the Supreme Court in The Hague.

68. Complaints about the alleged misconduct of public officials are investigated by the public prosecutions department. The head of the public prosecutions department, the Attorney General, is empowered to issue to officials in charge of the police whatever instructions for the prevention of indictable or non-indictable offences he may deem necessary in the interest of the proper dispensation of justice. The National Bureau of Criminal Investigation conducts criminal investigations into the alleged misconduct of public officials in general and police officers in particular. This Bureau is subject to the authority of the Attorney General and is directly accountable to him; it thus operates independently of the police.

69. When an interested party believes that there has been a failure to prosecute after a criminal offence has been committed, he may complain to a court of justice (art. 26 of the Code of Criminal Procedure). If the court reaches the same conclusion as the complainant, it may instruct the relevant official at the Public Prosecutions Department, after having received the official's report on the matter, to institute, or order the institution of, criminal proceedings, or to expedite existing criminal proceedings.

70. A victim of ill-treatment by a government official may seek compensation along a variety of paths. If the official concerned is prosecuted under criminal law, the Code of Criminal Procedure offers the victim the possibility

of joining the criminal proceedings. If the victim wishes to receive a larger sum in compensation, he can present his claim before a civil court. By invoking either article 1382 or article 1388 of Aruba's Civil Code, he may hold either the official concerned or the State of Aruba liable for material or non-material damage suffered.

IV. INFORMATION AND PUBLICITY

71. In connection with the various human rights reports that Aruba is obliged to draw up at periodic intervals, a suitable structure had to be devised for the procurement of the necessary information from government bodies. To this end, an Aruban human rights committee was appointed in 1991, its members drawn from 17 government bodies and NGOs, which together provide the material for the reports. The institution of a human rights committee had two beneficial effects: firstly, it designated certain persons as permanent liaison officers, and secondly, it raised awareness of the existence and importance of human rights within the relevant government bodies.

72. By decision of the Council of Ministers of 29 September 1993, the human rights committee was given a formal basis, and has the following tasks:

(a) To advise the government on human rights issues;

(b) To comply with reporting obligations in pursuance of international human rights conventions;

(c) To promote general awareness among the public regarding human rights.

73. Within the context of the Kingdom, close ties have been built up to achieve cooperation in the area of human rights, which have led, inter alia, to the holding of two workshops, each taking certain specific conventions as its theme. A third workshop of this kind is planned for the near future.

74. Informing the public about human rights is one of the tasks of the human rights committee. In addition to publishing booklets on the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, in November 1992 the committee started producing a series of articles in local newspapers about human rights and their importance for the individual members of the public. These articles, too, are thematically oriented, each dealing with a specific convention or an aspect of it. In collaboration with organizations active in the field of children's rights, and other organizations such as the Aruban branch of Amnesty International, a wide range of schools (both primary and secondary) and other institutions are visited, and informative talks given about human rights in general or about specific human rights issues.

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UGANDA

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I. GENERAL INFORMATION

A. Land and people

1. Uganda is a land-locked country which lies astride the equator, more than 2,000 km west of the Indian Ocean. It borders Kenya to the east, the United Republic of Tanzania and Rwanda to the south, Zaire to the west, and the Sudan to the north. The total area of the country is about 241,000 sq km, 16 per cent of which consists of lakes, rivers and marshes. Most of the land forms a high plateau at an altitude of between 900 to 1,500 m above sea level. To the eastern and western borders the land rises to over 2,000 m forming the shoulders of the Rift Valley. Here lies Lake Victoria, Lake Kyoga and the Rwenzori mountain range where the snow-capped Magherita is among the highest in Africa.

2. The climate is tropical and the annual rainfall varies considerably by region. The highest levels, averaging over 2,000 mm, are found in the lake region. The driest areas of the country can get as little as 500 mm annually. There is a diversity of animal and plant life, vegetation varies from dry savannah in the west and north-east to tropical rain forests in the centre and south-west.

3. Uganda had a population of 16.6 million people (1991 census). Half are children under 15 years. The country is one of the least urbanized in Africa with almost 90 per cent of the population (15,559,000) living in the countryside. This leaves about 10 per cent (2,198,000) of the people who live in urban areas. Populations tend to be concentrated in the more fertile agricultural areas particularly around the shores of Lake Victoria. Uganda is a comparatively densely populated country with about 85 persons per sq km. At a growth rate of 2.5 per cent (1991 census) Uganda's population is likely to double in the next 28 years. This will, however, be influenced by changes in fertility and the effects of the AIDS pandemic.

4. According to the 1991 housing and population census 46.4 per cent of the female population and 48.1 per cent of the male population were under 15 years; 3.3 per cent of the female and 3.5 per cent of the male population were above 65 years. This shows a generally young population and a high dependency ratio with only one person in the economically productive ages of 15 to 64 years for each dependent child.

5. The 1991 housing and population census showed that there were 996,086 female-headed households which is about 26 per cent of the total.

6. In terms of ethnicity, Uganda has more than 40 distinct ethnic groupings. The main divisions are between the Nilotic groups (25 per cent) and the Bantu (60 per cent). The Nilo-Hamitic-speaking groups in the east and the pygmies in the south and west of the country form the rest of the ethnic groupings. The Asians who were sent out of the country in 1972 at the time formed a sizeable proportion of the population. A considerable number of them have returned to the country since 1986.

7. English is the official language and Swahili is spoken widely along with other indigenous dialects. Uganda can be said generally to be a

secular country but freedom of religion is guaranteed by the State. A total of 44.5 per cent of the people are Catholic, 39.2 per cent Anglican, 10.5 per cent Muslim and 5.7 per cent belong to other denominations (1991 census).

8. The infant mortality rate (IMR) is 122/1,000 while the under-5 mortality rate (U5MR) is 203/1,000. Maternal mortality is estimated at 300 to 500 deaths per 100,000 births in urban areas. In the rural areas, this figure is higher and is estimated at 700 to 1,000.

9. Due to low levels of education, early marriage, low contraceptive use and a strong desire for children the level of fertility has remained high and averages 7.1 per woman. There are marked district variations ranging from 5.2 to 8.4.

10. The life expectancy at birth is estimated at 43.4 years.

11. The total literacy rate is about 54 per cent. Female literacy is 45 per cent and male literacy is 65 per cent.

B. Economy

12. Uganda's economy is predominantly agricultural. Eighty per cent of the population earn their living from the land, mostly on smallholdings using traditional farming methods. Agriculture contributes more than 90 per cent of Uganda's export earnings and over 40 per cent of government revenue, coffee contributing the largest percentage. Fluctuations in coffee prices have affected the economy adversely. In 1992, for example, Uganda received less than half its 1989 earnings for nearly the same volume of coffee exports. Government is now advocating diversification into other non-traditional export crops.

13. Uganda's economy reflects the recent history of instability and political mismanagement in the country. Between 1963 and 1971, the gross domestic product (GDP) grew at an annual rate of 4.5 per cent. This started to decline soon after 1971, and between 1977 and 1980, it dropped by 18.8 per cent. Nevertheless, since 1986 GDP has grown at over 5 per cent per annum leading to about 2.7 per cent annual growth per capita. Government operations remain highly dependent on external support. The gross domestic product in the fiscal year 1993/94 was 2,403.8 billion Uganda shillings (US$ 2,530.3). GDP per capita in the fiscal year 1993/94 was 131,032 shillings (US$ 138).

14. In 1992 GNP per capita was only US$ 220. This is far below the average for sub-Saharan Africa of US$ 370. Note that GNP per capita is just an average. It does not show the uneven distribution of income. In reality, therefore, very many Ugandans subsist on less than US$ 220 a year.

15. By June 1994 Uganda's debt stock was estimated at US$ 2.6 billion.

16. The combined consumer price index (headline inflation) indicates annual inflation for the 12 months to May 1994 to be 16.1 per cent per annum rising from a negative inflation rate of -2.4 per cent in June 1993.

II. GENERAL POLITICAL STRUCTURE

A. Political history

17. Uganda has passed through turbulent political history since it became independent in 1962. There have been seven changes of Government since independence. Uganda's political development has been characterized by instability which is partly attributed to ethnic and religious differences. The socially divisive policies followed by the British colonialists also contributed to this instability.

18. The National Resistance Movement (NRM) came to power in 1986 after successfully waging a five-year protracted struggle against the Obote II regime. The NRM Government has gradually restored stability to most parts of the country. Grass-Roots Resistance Councils (RCs) have been set up to organize people and check the human rights abuses that have afflicted the country. The RC system was first introduced during the war (1981-1986) in the absence of State administration in the National Resistance Army (NRA)-controlled areas. The Resistance Councils and committees were given recognition in September 1987 (RC Statute 1987). The statute legalized their existence and integrated them into the local government structure.

19. The development of the RC structure from the village RC I culminating in the National Resistance Council (NRC) blends the traditional style of government with modern democratic principles. Council executive members are democratically elected at every level, i.e. RC I (village), RC II (parish), RC III (sub-county), RC IV (county) and RC V (district). A Resistance Committee consists of nine members namely: Chairman; Vice-Chairman/Secretary for Children's Welfare; General Secretary; Secretary for Youth; Secretary for Women; Secretary for Information; Secretary for Mass Mobilization and Education; Secretary for Security; Secretary for Finance.

20. At least one female representative is appointed at each RC level to promote a more positive social gender balance at all levels of society. The evolution and structure of the RC system has been emphasized in view of the important role it is currently playing in the social and political life of Uganda, and also the important role it is going to play in the care and protection of children as stipulated in the Draft Bill for the Children's Statute and the Local Government (Resistance Councils) Statute 1993.

B. Organization of the executive

21. The 1967 Constitution concentrated executive powers in the President. With the removal of the federal and quasi-federal structure of the 1962 Constitution, all powers were concentrated at the centre to be exercised by the President without checks and balances. Since 1986 Uganda has been under the National Resistance Movement (NRM). The President was elected by the NRC, the political arm of the Movement under the NRM administration. The executive operates under the 1967 Constitution, but as modified by legal Notice No. 1 of 1986. The President is empowered to appoint Ministers, a Vice-President and there is a provision for a Prime Minister who is leader of government business in the NRC.

C. The legislature

22. By legal Notice No. 1 of 1986 the NRM amended the 1967 Constitution and among other things vested the NRC with supreme authority of the Government and in particular the legislative powers of the legislature. Statutes are passed with the assent of the President. Initially the NRC consisted of the NRM Chairman, the 38 original NRM members (historical) and Ministers. Since 1989 membership has expanded and by 1992 NRC membership totalled 277.

D. Judicial organs

23. The judiciary administers a system of law which in Uganda includes the Constitution, statutes enacted by Parliament, common-law principles derived from English law and customary law. The judiciary alone is the organ of the State vested with powers to interpret the law and determine all justiciable disputes. The judiciary is independent from the legislature and executive in interpreting the law and deciding disputes. The existing judicial system operates mainly under the 1967 Constitution, the Judicature Act 1967 and the Magistrates Court Act 1970.

24. The Resistance Committees Judicial Powers Statute (Statute No. 1 of 1985) provides that the nine members of the RC in every village, parish and sub-county are established as courts. These have powers to try court cases of value up to Uganda shillings 5,000 (US$ 5.3), customary law matters and cases arising from infringement of by-laws made under the Resistance Councils and Committees Statute of 1987. The RC courts operate under the overall supervision of the High Court which supervises all courts below it.

25. Magistrates courts are headed by a Chief Magistrate. The Chief Magistrate and magistrate Grade I are lawyers while the other grades (II and III) are expected to have a diploma in law and judicial practice. All magistrate courts exercise original jurisdiction in criminal and civil matters except for capital offences. The Chief Magistrate courts have appellate jurisdiction over magistrates II, III and RC courts.

26. The High Court has unlimited jurisdiction in both civil and criminal matters. It has appellate jurisdiction for the magistrates courts. The court is headed by the Principal Judge. The High Court is duly constituted by a single judge (some judges are resident in up-country centres). However, in criminal matters the judge is assisted by assessors.

27. The Supreme Court is the highest court. All the appeals from the High Court go to the Supreme Court. It consists of the Chief Justice, Deputy Chief Justice and not less than three other judges. The Court is constituted by three judges except in constitutional cases where five judges are required.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial

28. There are formal courts comprising the Supreme Court, the High Court and the Magistrates Courts. There are also informal courts mainly composed of Resistance Council courts.

B. Administrative

29. Under the Inspector General of Government (IGG) Statute (Statute No. 2 of 1988), the office of the IGG is mandated to protect and promote human rights and the rule of law in Uganda, and it also deals with administrative abuses.

30. The Human Rights Commission has powers to hear human rights-related cases but cannot try those implicated in the violation of the rights. The Human Rights Commission has investigated abuses under the regimes prior to the NRM Government and has already submitted its report to Government. The Human Rights Commission is going to be entrenched in the new constitution. There are also several NGOs in the country with specific interests in human rights.

31. There is an active press that has contributed to exposing and highlighting human rights abuses. There is general respect for freedom of speech.

C. Remedies

32. Remedies obtainable to an individual who claims that any of his/her rights have been violated depend on the nature of the violation. When an individual's civil rights are violated, he or she can file a civil suit in the appropriate courts. When a person's constitutional rights are violated then a constitutional suit can be filed. If a crime is committed the State can file a complaint on behalf of the victim.

D. System of compensation

33. Compensation only applies in civil cases. The Uganda Law Review Commission is, however, working on a project to introduce compensation to victims of crime. Criminal cases are prosecuted in the courts of law and the penalties depend on the offence. For public officers whose rights are violated the Inspector General of Government intervenes as appropriate. Government sometimes intervenes to offer relief or compensation to people whose rights have been violated, e.g. the victims of war and insurgency.

E. Rehabilitation

34. Rehabilitation services for victims are generally lacking. This is certainly an area that needs a lot of attention. Some NGOs are emerging to address this area, but their activities are limited and still in the infancy stage.

F. Protection of human rights

35. The rights in the various human rights instruments are protected by the Constitution. In addition, enabling statutes do exist to expound on the provisions in the Constitution, e.g. Penal Code Act, Magistrates Court Act, Trial and Indictment Decree and others.

36. The Inspectorate of Government has a separate instrument of its own that provides a framework for the protection of human rights, the Inspector General of Government Statute 1988.

G. Derogation

37. Provisions for derogation are contained in the same chapter 3 of the 1967 Constitution. It is provided, for example, that in the enjoyment of the fundamental rights and freedoms no person shall prejudice the freedoms of others or the public interest.

38. The report of the Uganda Constitutional Commission noted that derogation provisions in the 1967 Constitution were too many and watered down the substance of the human rights provisions. It further noted that the human rights provisions could be suspended in officially declared state of emergency.

39. The Constitutional Commission, among other things, recommended that the enjoyment of rights and freedoms in the new constitution should be limited only by the requirements to respect the rights and freedoms of others, the demands of public interest and morality and the need for law and order in society. The outcome of this recommendation and others will be in the new constitution.

H. How human rights instruments are made part of the national legal system

40. For a ratified instrument to become municipal law, it is debated by Parliament, a bill is passed and a law is then made.

41. The various human rights instruments are not directly enforceable by the courts or other administrative authorities. They first have to be transferred into internal laws or administrative arrangements.

I. Machinery for overseeing the implementation of human rights

42. There is a Human Rights desk in the Ministry of Justice. It is responsible for receiving human rights complaints and teaching of human rights. The Uganda Law Reform Commission is responsible for incorporating all ratified international instruments into national laws and educating the public about them.

43. The IGG is currently filling in the gap for the Human Rights Commission in overseeing human rights issues. This mandate will shift to the human rights commission to be established under the new constitution.

IV. INFORMATION AND PUBLICITY

44. Not much has been done in this area. However, IGG's office has been holding some workshops covering a wide spectrum of human rights issues for the district-level administrators and the press. The United Nations fact-sheet booklets on human rights are given out during these seminars. No attempts have been made to translate these series into the local languages yet.

45. The Uganda Law Reform Commission is supposed to be engaged in promoting awareness concerning the rights in the various instruments. Due to lack of resources there are no activities yet in place.

46. It is the responsibility of the IGG's office to prepare reports which are submitted to the President and Parliament. This office largely conducts its own investigations with little or no inputs from external sources.

47. The Ugandan Government is continuing the struggle to reverse negative political and economic trends. The country's human rights record has greatly improved since 1986. A lot of infrastructural development is taking place, especially the rehabilitation and making of new roads, improving water and electricity supply and the revitalization of the industrial sector. All these are being achieved as a result of the favourable political climate created since 1986. Most Ugandans have taken up this challenge with hope and optimism.